

Internal Revenue Service  
**memorandum**

CC:TL-N-9665-89

Br2:LSMannix

date: **OCT 24 1989**

to: District Counsel, Cleveland  
Attn: Jack E. Prestrud

CC:CLE

from: Assistant Chief Counsel (Tax Litigation) CC:TL

---

subject: Request for Assistance - [REDACTED] / [REDACTED] -  
Classification of "Preferred Stock" of [REDACTED]  
[REDACTED] / [REDACTED]

This responds to your request for assistance, dated August 25, 1989, concerning the issue of whether the "preferred stock" issued by [REDACTED] in exchange for [REDACTED] common stock was, in substance, debt. We understand that the statute of limitations is due to expire at the end of [REDACTED]. It is Tax Litigation Division practice not to answer requests that are clearly technical advice requests, where the case is being handled in Examination prior to the time a district counsel office is reviewing a proposed statutory notice. Compare CCDM (35)3(14)4; see also CCDM (35)8(12)6 and 7.

We believe it would be best for Examination to submit a technical advice request on this issue to the Assistant Chief Counsel (Corporate). The request should note that the case involves a Large Case Program (LCP) Issue. You may wish to assist Examination in writing up this request pursuant to Rev. Proc. 89-2, 1989-1 I.R.B. 21 and IRM 4550. On our part, we will do all we can to expedite your receipt of the answer by maintaining regular contact with Technical and assisting, if necessary, with the response. Furthermore, we will assist you, if you wish, in preparing the technical advice request, including developing arguments for incorporation therein.

The private sector is extremely sensitive about its administrative and procedural rights and often views the Industry Specialization (ISP) and Large Case (LCP) Programs as undermining its rights under Rev. Proc. 89-2. We have often assured taxpayer groups that the purpose of the program is to afford our Examination people more legal advice and case development support and that, except where a case is designated for litigation, we will not affect administrative procedures in Exam and Appeals.

**09189**

If there was a reasonably clear answer to your request and we felt that technical advice within the meaning of Rev. Proc. 89-2 were not required, we would of course, give you an answer. Where, however, a case so clearly falls within the above referenced revenue procedure and IRM provisions, we feel we must follow appropriate procedures. Ultimately, this will strengthen the ISP and LCP.

MARLENE GROSS

By:

  
CLIFFORD M. HARBOURT  
Senior Technician Reviewer

Branch No. 2  
Tax Litigation Division